IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA CHARLOTTE DIVISION

3:08-cv-257-GCM (3:03-CR-67-GCM-DCK-1)

LEWIS MOSES BYRD,)	
)	
Petitioner,)	
)	
v.)	<u>ORDER</u>
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	
	_)	

THIS MATTER comes before the Court on consideration of Petitioner's Motion to Reconsider the Court's Order finding that Petitioner's Motion for Leave to File Amendment, (Doc. No. 28), represented a successive, unauthorized Motion to Vacate, Set Aside or Correct Sentence under 28 U.S.C. § 2255. See 28 U.S.C. § 2255(h). For the reasons stated in the Court's Order denying his Motion for Leave to File Amendment, see Doc. No. 29, the Court denies his Motion to Reconsider.

IT IS, THEREFORE, ORDERED that Petitioner's Motion to Reconsider is **DENIED**. (Doc. No. 30).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2255 Cases, the Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the

dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

Signed: April 1, 2013

Graham C. Mullen

United States District Judge